



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Northern Region
601 Locust Street
Redding, CA 96001
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



March 18, 2019

Christy Cummings Dawson
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Yreka, CA 96097

Governor's Office of Planning & Research

MAR 18 2019

STATE CLEARINGHOUSE

**Subject: Mitigated Negative Declaration for Agritourism Zoning Text
Amendment Z-17-03, Siskiyou County, State Clearinghouse Number
2019029087**

Dear Ms. Dawson:

The California Department of Fish and Wildlife (Department) has reviewed the mitigated negative declaration (MND) for the above-referenced project (Project). Pursuant to Fish and Game Code section 1802, and as a Trustee Agency, the Department has jurisdiction over the conservation, protection, and management of California's fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species. As a Responsible Agency, the Department administers the California Endangered Species Act and other provisions of the Fish and Game Code that conserve the State's fish and wildlife public trust resources. The Department offers the following comments and recommendations on the Project in our role as the State's trustee for fish and wildlife resources and as a Responsible Agency under the California Environmental Quality Act (CEQA), California Public Resources Code section 21000 et seq.

Project Description

The Project is a

"proposed zoning text amendment that would allow limited agritourism incidental to active agricultural operations on parcels 10 acres and larger that are zoned AG-1, AG-2, and/or R-R. Agritourism uses would include but not be limited to farm tours, field days, farm sponsored hospitality dinners, educational classes, U-Pick produce sales, agricultural farmstays, and agritourism camping. Further, in an effort to minimize, to the greatest extent practicable, off-site impacts associated with agritourism-related activities, the zoning text amendment would differentiate between generally permissible less intensive 'Level I Agritourism' and more intensive 'Level II Agritourism' and would subject Level II Agritourism' to Agritourism Performance Standards and approval of either an administrative use permit or conditional use permit."

1917-18

1918-19

1919-20

Comments and Recommendations

The Department appreciates the inclusion of multiple measures to protect biological resources in the MND. In order to provide further protection, the Department offers the following recommendations.

Nesting Migratory Birds and Raptors

Mitigation measure 4.1 addresses impacts to nesting migratory birds and raptors. In addition to Fish and Game Code section 3503, already discussed in the measure, Fish and Game Code sections 3503.5 and 3513 also protect migratory birds and raptors.

The Department recommends the second paragraph of the mitigation measure include the following addition (shown in italics): "*If an active nest is located during the survey, a no-disturbance buffer shall be established around the nest by the qualified biologist, in consultation with CDFW and the USFWS.*" If construction activities are delayed or suspended for more than one week after the completion of the pre-construction survey, the Project location and adjacent habitat shall be resurveyed. Additionally, pre-construction survey results should be sent to the Department at: California Department of Fish and Wildlife, Attn: CEQA, 601 Locust Street, Redding, CA 96001.

Bats

The Department generally recognizes the maternity season for bats as March 1 through August 31, instead of through July 31 used in mitigation measure 4.2. This season may vary annually depending on weather conditions and may also vary slightly by species. As discussed below, the Department recommends that all bat survey work be conducted by a qualified biologist knowledgeable in the ecology of local bat species. This qualified biologist would be able to direct the appropriate timing of survey and exclusion work.

In addition to protecting bats during the maternity season as discussed in mitigation measure 4.2, the hibernacula season must also be considered. Removal or disturbance of a roost structure during either of these seasons could cause significant impacts to bats as a colony could consist of the entire local population of a species and impacts may lead to high mortality. The availability of suitable roosting habitat is considered a limiting factor for western bat populations. Roost site suitability is often based on a narrow range of suitable temperatures, relative humidity, physical dimensions, etc., and many species exhibit high roost site fidelity. Depending on the impact to the structure providing roosting habitat,



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additional mitigation may be necessary and could include providing replacement or alternate roost habitat.

If necessary, humane evictions must be conducted during seasonal periods of bat activity, which may vary by year, location, or species and must be conducted by or under the supervision of a biologist with specific experience conducting exclusions.

The qualified biologist discussed in mitigation measure 4.2 must possess knowledge of local bat species, including species identification, life histories and ecology; have experience conducting field surveys for bats; have experience analyzing impacts of development on bats and their habitat and developing avoidance and mitigation measures; and have experience conducting humane exclusions.

Aquatic Resources

Mitigation measure 4.3 addresses impacts to riparian vegetation and aquatic resources. The buffer distances proposed to mitigate for impacts to stream and wetland resources may not be sufficient to minimize or avoid impacts to these sensitive resources. A larger buffer would be necessary to avoid impacts to listed species or sensitive habitats. For example, the Department regularly recommends a buffer of at least 175 feet along streams containing listed salmonid species and regularly recommends buffers larger than 50 feet for sensitive wetland habitats. Buffers should be developed in consultation with resource agencies and be measured from the top-of-bank or the outside edge of existing vegetation, whichever is greater.

The Department has responsibility for wetland and riparian habitats. It is the policy of the Department to strongly discourage development in wetlands or conversion of wetlands to uplands. We oppose any development or conversion which would result in a reduction of wetland acreage or wetland habitat values, unless, at a minimum, Project mitigation assures there will be "no net loss" of either wetland habitat values or acreage. If applicable, the environmental documents prepared for Level II Agritourism projects should demonstrate that the Project will not result in a net loss of wetland habitat values or acreage.

Project sites supporting aquatic, riparian, or wetland habitat should provide a delineation of lakes, streams, and associated riparian habitats potentially affected by the Project for agency and public review. This report should include a preliminary jurisdictional delineation including wetlands identification pursuant to the United States

Fish and Wildlife Services (USFWS) wetland definition¹ as adopted by the Department². Please note that some wetland and riparian habitats subject to the Department's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers. The jurisdictional delineation should also include mapping of ephemeral, intermittent, and perennial stream courses potentially impacted by the Project. In addition to "*federally protected wetlands*" (see CEQA Appendix G), the Department considers impacts to any wetlands (as defined by the Department) as potentially significant.

Projects that will substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank (which may include associated riparian resources) of a river, stream or lake, or use material from a streambed may require notification to the Department pursuant to Fish and Game Code section 1602 prior to commencement of these activities. The Department's issuance of a Lake or Streambed Alteration Agreement (LSAA) for a project that is subject to CEQA will require CEQA compliance actions by the Department as a Responsible Agency. The Department as a Responsible Agency under CEQA may consider the Lead Agency's environmental document for the Project. To minimize additional requirements by the Department pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the document should fully identify the potential impacts to the lake, stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the agreement. A LSAA notification package may be obtained through the Department's website at <https://www.wildlife.ca.gov/Conservation/LSA>.

Special Status Plants and Sensitive Natural Communities

If appropriate rare plant habitat or sensitive natural communities exist on project sites subject to Level II Agritourism standards, the Department recommends the completion of a thorough assessment following the Department's 2018 *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* available at: <https://www.wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>. These surveys must be conducted during the appropriate time of year to identify species of concern and should include areas with both direct and indirect impacts. Impacts to special-status species and sensitive natural communities found during surveys should be analyzed and specific mitigation should be required to reduce any impacts to less than significant.

¹ Cowardin, Lewis M., et al. 1979. Classification of Wetlands and Deepwater Habitats of the United States. U.S. Department of the Interior, Fish and Wildlife Service.

² California Fish and Game Commission Policies: Wetlands Resources Policy; Wetland Definition, Mitigation Strategies, and Habitat Value Assessment Strategy; Amended 1994



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Conditional Use Permit Review

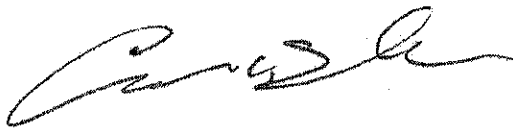
The MND discusses instances where a conditional use permit may be required. The Department looks forward reviewing these future projects and may provide additional comments and recommendations beyond those addressed in this letter based on site specific project information.

California Natural Diversity Database

If any special-status species are found during surveys for this Project, the Department requests that occurrence details are submitted to the California Natural Diversity Database (CNDDDB). The online submission and CNDDDB field survey forms, as well as information on which species are tracked by the CNDDDB, can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. A copy of these forms should also be sent to the Department's Northern Region office at: Attn: CEQA, 601 Locust Street, Redding, CA 96001.

The Department appreciates the opportunity to provide comments on this Project. If you have any questions, please contact Kristin Hubbard, Environmental Scientist, at (530) 225-2138, or by email at Kristin.Hubbard@wildlife.ca.gov.

Sincerely,



Curt Babcock
Habitat Conservation Program Manager

cc: Christy Cummings Dawson
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State Clearinghouse
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